

Independent claim 1 calls for, among other things, a display sheet and a data field affixed to the display sheet wherein the data field on the display sheet may be used to activate a plurality of accounts associated with a plurality of cards.

It is the Examiner's position that it would have been obvious to modify the package assembly of Fiala to employ a single data field disposed on a display sheet as taught by Klure. Applicant disagrees. There is no suggestion to modify the Fiala patent in this way. In fact, there is motivation and teaching against such a modification. Further, such a modification would not result in Applicant's invention as claimed.

The Fiala patent describes a package adapted for holding a first card so that the first card can be used to activate a metered account without being removed from the package. The Fiala patent does not disclose or even suggest a display sheet with a data field affixed to the display sheet. The ten embodiments disclosed in the Fiala patent all include this accessibly secured first card as an essential element. The Fiala patent describes several advantages of securing the first card to the display panel in this fashion, including the fact that the first card does not have to be correlated with a particular package (Column 2, Lines 50-53), the package and first card can be separately manufactured (Column 5, Lines 10-13), and the card and package may be manufactured by separate companies (Column 19, Lines 14-18). The Fiala patent teaches away from the modification suggested the Examiner by emphasizing benefits associated with using a separate card that is secured to a package to activate a metered account.

The Klure patent is directed to a package with activation indicia on the package in an exposed location that may be used to activate an activatable account. The package includes a single durable card that is associated with the activatable account. The package is itself

preferably made out of a less durable material. Klure discloses an embodiment where a second card is integrally formed with the package and formed of the package material (Column 4, Lines 9-11). This card is described as being intended for short term use and as being constructed for the lower durability material of the package (Column 4, Line 14-18). Whatever the number or type of cards, the activation indicia of Klure is only disclosed as activating a single account, and the additional card or cards in a package are all associated with that account. These two patents are directed at completely different applications, there is simply no motivation in the art to combine these two references. One of ordinary skill would have appreciated the desirability of a display sheet with a data field that may be used to activate a plurality of accounts associated with a plurality of cards as in Applicant's invention only upon access to Applicant's disclosure, which is impermissible.

Even if there was a motivation to combine the teachings of these references, the combination would not result in Applicant's invention. The Klure patent relates to a package with an activation strip on the exterior of the package for activating a card (or cards) associated with a single account. The package described by the Klure patent is designed to activate a single account associated with a single card that cannot be accessed without removing it from the package. This is, at best, an opposing teaching to that of Applicant's invention and of the Fiala reference. If such an activation strip was added to the disclosure of the Fiala patent, the Applicant's invention would not result. The Fiala package cannot be activated unless a card is secured to the package in a way that exposes a data encoded strip on the card. Thus the Fiala patent is not a primary reference without this card secured to the package in this fashion. Adding the activation strip of the Klure reference, which is capable only of activating a single account,

to the Fiala package, which has a card secured to a package in a way that exposes a data encoded strip on the card, does not result in anything resembling Applicant's invention. A package with a data field affixed to the package that may be used to activate a plurality of accounts is not created by combining a fully functioning primary reference with elements of the secondary cited reference. Even if the Fiala reference were modified in view of the Klure reference, the resulting combination would not satisfy the requirements of claim 1. Applicants assert therefore that claim 1 is allowable over the cited art. Further, since claims 2-15 depend either directly or indirectly from allowable independent claim 1 and include all of the limitations of claim 1, these claims are also in condition for allowance.

The Examiner rejected independent claim 16 as being obvious over Fiala, Klure, and U.S. Patent Number 6,729,656 to Kubert et al. The Examiner refers to the combination of Fiala and Klure as used to reject independent claim 1 and states that further modification of that combination by Kubert et al. renders claim 16 obvious under 35 U.S.C. § 103. However claim 16 is a standalone independent claim with different limitations than claim 1. It is speculative for Applicants to determine how the Examiner would apply the teachings of Fiala and Klure to claim 16 in order to render it obvious in light of Kubert et al. The Examiner has the burden of showing a prima facie case of obviousness, and Applicants need not show nonobviousness if that burden is not met. Even so, Applicants respectfully contend that the Examiner's combination of Fiala and Klure is as inappropriate with respect to claim 16 as it is with respect to claim 1 and that claim 16 is allowable over the cited art. Further, since claims 17-20 depend either directly or indirectly from allowable independent claim 16 and include all of the limitations of claim 16, these claims are also in condition for allowance.

The Examiner rejected independent claim 21 under 35 U.S.C. § 103 as being unpatentable over Fiala in view of Klure. The Examiner asserted that the combination of Fiala and Klure results in the package structure used in claim 21 and the use of this structure in the process of claim 21 would have been obvious. Applicants contend that Fiala and Klure cannot be combined to create the package structure defined in claim 21. Further, Applicants contend that the method of claim 21 is not disclosed or made obvious by Fiala, Klure, or a combination of these references.

Structurally, claim 21 requires, among other things, a data field affixed to a display sheet from which data can be read and transmitted to a computer that can credit a plurality of accounts. Fiala and Klure, either alone or combined, do not disclose or make obvious such a data field for at least the reasons described above in response to Examiner's rejection of claim 1. Claim 21 is an independent claim that is not related to claim 1, but Applicants' contend that their arguments against the combination of Fiala and Klure apply with equal force to Examiner's application of these references to claim 21.

Claim 21 also describes a novel process for activating a plurality of cards since none of the cited references disclose or make obvious, alone or in combination, at least the step of activating a plurality of cards by transmitting data from a data field affixed to a display sheet. This process step can only be performed using a package with a data field affixed the display sheet that may be used to activate a plurality of accounts. The cited references also do not disclose or make obvious the step of passing a display sheet through a data field reader, wherein a covering cooperates with the display sheet to form an enclosed space within which are retained a plurality of cards, each of which is associated with a plurality of accounts. Fiala does not

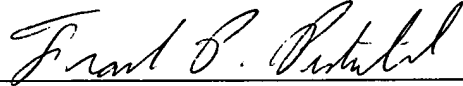
disclose a method of passing a display sheet through a data field reader. Klure does not disclose a method employing a package that is capable of activating a plurality of accounts. The combination of the activation methods of Fiala and Klure, like the combination of the structures disclosed in these references, is not motivated by the disclosure in the references and would not result in the method of claim 21 in any event.

The Examiner rejected claims 2, 7, and 17 as being obvious over Fiala, Klure, Kubert et al., and U.S. Patent Number 4,245,035 to Poshkus. As stated above, Applicant believes these claims are allowable as being dependent, either directly or indirectly, from allowable claims 1 and 16. Further, Poshkus discloses a photo-identification card with a plastic laminate permanently encasing a photographically exposable film chip. The film chip can be developed while within the card by passing a processing fluid through access ports that lead from the exterior of the laminate to the permanently encased chip. This is not analogous technology to Applicant's invention and there is no reason to believe that one of skill in the art in possession of Fiala, Klure, and Kubert et al. would look to this reference. Further, even if the laminate of Poshkus was added to the teachings of Fiala, Klure, and Kubert et al. Applicant's invention as claimed in claims 2, 7, and 17 would not result.

In light of the above, the Applicants submit that each of claims 1-21 is in condition for allowance. As these are the only claims pending in the application, prompt issuance of a Notice of Allowance in this case is courteously solicited.

If the Examiner feels that prosecution of the present application can be materially advanced by a telephonic interview, the undersigned would welcome a call at the number listed below.

Respectfully submitted,

  
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